

§ 22.15

(d) *Withdrawal of the complaint.* The complainant may withdraw the complaint, or any part thereof, without prejudice one time before the answer has been filed. After one withdrawal before the filing of an answer, or after the filing of an answer, the complainant may withdraw the complaint, or any part thereof, without prejudice only upon motion granted by the Presiding Officer.

§ 22.15 Answer to the complaint.

(a) *General.* Where respondent: Con- tests any material fact upon which the complaint is based; contends that the proposed penalty, compliance or cor- rective action order, or Permit Action, as the case may be, is inappropriate; or contends that it is entitled to judg- ment as a matter of law, it shall file an original and one copy of a written an- swer to the complaint with the Re- gional Hearing Clerk and shall serve copies of the answer on all other par- ties. Any such answer to the complaint must be filed with the Regional Hear- ing Clerk within 30 days after service of the complaint.

(b) *Contents of the answer.* The answer shall clearly and directly admit, deny or explain each of the factual allega- tions contained in the complaint with regard to which respondent has any knowledge. Where respondent has no knowledge of a particular factual alle- gation and so states, the allegation is deemed denied. The answer shall also state: The circumstances or arguments which are alleged to constitute the grounds of any defense; the facts which respondent disputes; the basis for op- posing any proposed relief; and whether a hearing is requested.

(c) *Request for a hearing.* A hearing upon the issues raised by the complaint and answer may be held if requested by respondent in its answer. If the re- spondent does not request a hearing, the Presiding Officer may hold a hear- ing if issues appropriate for adjudica- tion are raised in the answer.

(d) *Failure to admit, deny, or explain.* Failure of respondent to admit, deny, or explain any material factual allega- tion contained in the complaint con- stitutes an admission of the allegation.

(e) *Amendment of the answer.* The re- spondent may amend the answer to the

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complaint upon motion granted by the Presiding Officer.

§ 22.16 Motions.

(a) *General.* Motions shall be served as provided by § 22.5(b)(2). Upon the fil- ing of a motion, other parties may file responses to the motion and the mov- ant may file a reply to the response. Any additional responsive documents shall be permitted only by order of the Presiding Officer or Environmental Ap- peals Board, as appropriate. All mo- tions, except those made orally on the record during a hearing, shall:

(1) Be in writing;

(2) State the grounds therefor, with particularity;

(3) Set forth the relief sought; and

(4) Be accompanied by any affidavit, certificate, other evidence or legal memorandum relied upon.

(b) *Response to motions.* A party's re- sponse to any written motion must be filed within 15 days after service of such motion. The movant's reply to any written response must be filed within 10 days after service of such re- sponse and shall be limited to issues raised in the response. The Presiding Officer or the Environmental Appeals Board may set a shorter or longer time for response or reply, or make other or- ders concerning the disposition of mo- tions. The response or reply shall be accompanied by any affidavit, certifi- cate, other evidence, or legal memo- randum relied upon. Any party who fails to respond within the designated period waives any objection to the granting of the motion.

(c) *Decision.* The Regional Judicial Officer (or in a proceeding commenced at EPA Headquarters, the Environ- mental Appeals Board) shall rule on all motions filed or made before an answer to the complaint is filed. Except as pro- vided in §§ 22.29(c) and 22.51, an Admin- istrative Law Judge shall rule on all motions filed or made after an answer is filed and before an initial decision has become final or has been appealed. The Environmental Appeals Board shall rule as provided in § 22.29(c) and on all motions filed or made after an appeal of the initial decision is filed, except as provided pursuant to § 22.28.

(d) *Oral argument.* The Presiding Offi- cer or the Environmental Appeals